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west virginia department of environmental protection

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Division of Mining and Reclamation  
601 57<sup>th</sup> Street, SE  
Charleston, WV 25304-2345  
Phone: (304) 926-0490  
Fax: (304) 926-0456

Austin Caperton, Cabinet Secretary  
dep.wv.gov

July 11, 2019

Bluestone Coal Corporation  
PO Box 2178  
Beaver, WV 25813

Certified Mail  
Return Receipt Requested

**ADMINISTRATIVE CIVIL PENALTY ASSESSMENT NOTICE**

Dear Permittee,

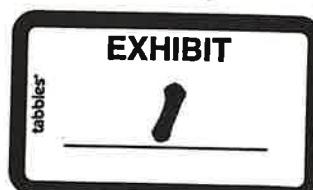
Enclosed is **PROPOSED Consent Order Number M-19-283** dated the 11<sup>th</sup> day of June 2019. This action is based upon the investigation and recommendation of the West Virginia Department of Environmental Protection's (WVDEP) Division of Mining and Reclamation in response to Bluestone Coal Corporation violating Chapter 22, Article 11, of the West Virginia State Code.

This PROPOSED Consent Order is being offered pursuant to Chapter 22, Article 11, Section 22a of the West Virginia Code and Legislative Rule, Title 47, Series 30B (47CSR30B).

Please review the terms and conditions of the PROPOSED Consent Order and respond within thirty (30) days of your receipt of this letter. You may accept these terms and conditions by signing and returning the PROPOSED Consent Order to me at WVDEP; Division of Mining and Reclamation; Inspection and Enforcement; 601 57<sup>th</sup> Street SE Charleston, WV 25304. If you wish to request an Informal Hearing before an Assessment Officer, please respond to Michelle Sturey, in writing, at the above address within thirty (30) days of receipt of the PROPOSED Consent Order. Should you request an Informal Hearing, you will receive notice of its time, place, and location, at least fifteen (15) calendar days in advance.

Upon conclusion of this proceeding and your reaching agreement with the WVDEP on a resolution of the violation(s) contained in the PROPOSED Consent Order, the PROPOSED Consent Order will be designated as a Draft Consent Order and will be subject to the Public Notice and comment requirements set forth in West Virginia Code Chapter 22-11-22a. This notice will identify the responsible party, the specific enforcement action to be taken and the Civil Administrative Penalty assessment. The WVDEP will consider all comments received during the thirty (30) day comment period and the Draft Consent Order may be subject to

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BCC006545

change. Should the proposed settlement be modified after the comment period, you have the option of choosing not to enter into the Draft Consent Order.

Failure to respond to this correspondence as required shall be considered as your refusal to participate in this process.

Sincerely,



John Flesher  
Acting Assistant Deputy Director



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west virginia department of environmental protection

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Division of Mining and Reclamation  
601 57<sup>th</sup> Street  
Charleston, WV 25304  
Phone: 304-926-0440/Fax: 304-926-0456

Austin Caperton, Cabinet Secretary  
dep.wv.gov

**CONSENT ORDER  
ISSUED UNDER THE  
WATER POLLUTION CONTROL ACT  
WEST VIRGINIA CODE, CHAPTER 22, ARTICLE 11**

**TO:** Bluestone Coal Corporation  
P.O. Box 2178  
Beaver, WV 25813

**DATE:** July 11, 2019  
**ORDER NO.:** M-19-283

**INTRODUCTION**

This Consent Order is issued by the Director of the Division of Mining and Reclamation (hereinafter "Director"), under the authority of West Virginia Code, Chapter 22, Article 11, Section 1 et seq. to Bluestone Coal Corporation (hereinafter "Bluestone").

**FINDINGS OF FACT**

In support of this Order, the Director hereby finds the following:

1. Bluestone holds West Virginia National Pollution Discharge Permits ("NPDES") issued by the West Virginia Department of Environmental Protection ("WVDEP") for its mining and mining-related operations in West Virginia. Among those WVDEP NPDES Permits are WV1005979, WV1005995, WV1006304, WV1006347, WV1006479, WV1006614, WV1008552, WV1008838, WV1018698, WV1018736, WV1018965, WV1021095, WV1024159 ("Permits").
2. The WVDEP NPDES Permits are issued pursuant to the WVDEP's authority under the West Virginia Water Pollution Control Act pursuant to authority delegated to the WVDEP by the United States Environmental Protection Agency under the Federal Clean Water Act for the issuance of WVDEP NPDES Permits.
3. Bluestone has failed to submit required monthly Discharge Monitoring Reports ("DMRs") information on its effluent discharge and other information to the WVDEP, pursuant to the terms and conditions of the WVDEP NPDES Permits. This Failure to Submit has occurred through not electronically filing the DMRs as prescribed by the Division of Mining and Reclamation ("the Division").

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4. Bluestone has reported the quality of its discharges and other information to the WVDEP, pursuant to the terms and conditions of the WVDEP NPDES Permits. This reporting has occurred through electronic filing of Discharge Monitoring Reports ("DMRs") as prescribed by the Division of Mining and Reclamation ("the Division").
5. The Division has developed and maintains a database which compiles the information submitted in DMRs by holders of WVDEP NPDES Permits issued for mining and mining-related operations, including the information submitted by Bluestone for the Permits ("the Database"). The Database has been used by the WVDEP to track compliance with WVDEP NPDES Permits for coal mining activities.
6. The WVDEP has evaluated agency records beginning with January 2016 through December 2018 regarding Bluestone Permit(s), DMRs, and other related information, including information submitted by the Bluestone at the request of WVDEP, and has completed an evaluation of Bluestone DMRs compliance.
7. Based on its evaluation, the WVDEP has documented violations of the permitted effluent limits for the WVDEP NPDES Permits. The results of this investigation are included in Attachment 2 which list the WVDEP NPDES Permits that have violations.
8. Based on its evaluation, the WVDEP has documented the failure to report Monthly DMRs information required by the WVDEP NPDES Permits.
9. Based on its evaluation, the WVDEP has documented 66 (sixty-six) failure to submit payments for WVNPDES Annual Permit Fees (Coal). These fees are addressed in the payment plan included in Consent Order M-19-273.
10. Based on its evaluation, the WVDEP has documented Notice of Violations ("NOV") and Single Event Violations ("SEV") of WV1005774, WV1005944, WV1005979, WV1005987, WV1005995, WV1006070, WV1006347, WV1006479, WV1006614, WV1008838, WV1012088, WV1018701, WV1018833, and WV1024124. These NOVs and SEVs were issued under the enforcement standard "Failure to Submit Timely Permit Renewal". All Permit Renewals have since been submitted and Bluestone is working with WVDEP towards completion.

#### **ORDER FOR COMPLIANCE**

Now, therefore, in accordance with Chapter 22, Article 11, Section 1 et seq. of the West Virginia Code it is hereby agreed between the parties, and ORDERED by the Director:

1. Bluestone shall immediately take all measures to initiate compliance with all terms and conditions of the Permit(s), Outlets(s) and Parameter(s) indicated in Table A below:

PERMIT	OUTLET(s)	PARAMETER
WV1005995	001	Aluminum, total
WV1006304	005, 006, 007, 008	Selenium, total
WV1006347	001	Aluminum, total
WV1018698	001, 002	Aluminum, total
"	001	Total Suspended Solids
WV1018736	002	Iron, total
WV1018965	004, 005, 007, 010	Aluminum, total
WV1024159	003	Aluminum, total

2. Bluestone shall comply with the Compliance Schedule and reporting requirements contained in Attachment 1.
3. Within 90 days of entry of this Order, Bluestone shall submit for the Division's approval a proposed Corrective Action Plan (CAP) with schedule and possible applications for modification(s), outlining how and when Bluestone will achieve compliance with Permit(s) limits for which compliance cannot be immediately achieved. This CAP shall address the Permit(s) listed in Table A of this Order. The CAP will include costs of construction, maintenance, and operation.
4. The Division shall review the proposed CAP and promptly notify Bluestone of any comments it may have with the proposed CAP. The parties agree to work together to resolve any issues related by the Division with regards to the CAP. Within 30 days of receipt of the Division's approval of the CAP, Bluestone shall begin the implementation of the plan in accordance with the scheduled provided therein. Upon approval, the CAP shall be considered a part of this Order.
5. Because of Bluestone WVDEP NPDES violations of the Permit(s), Bluestone shall be assessed a Civil Administrative Penalty of \$883,310 (eight hundred eighty-three thousand three hundred and ten dollars) to be paid to the Department of Environmental Protection within thirty (30) days of demand for penalty from WVDEP. The penalty amount will be deposited in the Stream Restoration Fund. Payments made pursuant to this paragraph are not tax-deductible for purposes of State or Federal Law.
6. Total Payment in the amount of \$883,310 (eight hundred eighty-three thousand three hundred and ten dollars) shall be mailed to:

**John Flesher, Acting Assistant Deputy Director  
 Division of Mining and Reclamation  
 WV-DEP  
 601 57<sup>th</sup> Street SE  
 Charleston, WV 25304**

7. The Order for Compliance of this Order satisfies any claim WVDEP has or may have for penalties under the West Virginia Water Pollution Control Act for violations of the effluent limits for outlets which occurred January 2016 through December 2018 in relation to the specified Permits.

**8. Stipulated Penalties**

- a. Beginning with the effective date of this Order, Bluestone shall be liable for stipulated penalties for violations of items 2 through 6 of the Order for Compliance of this Order. These stipulated penalties shall be effective until termination of this Order. These stipulated penalties accrue as follows:
  - i. The first through the 15<sup>th</sup> day of failing to comply with all terms and conditions of this Order shall result in payment of a stipulated penalty of \$1,000 per day per violation.
  - ii. The 16<sup>th</sup> through 30<sup>th</sup> days of failing to comply with all terms and conditions of this Order shall result in payment of a stipulated penalty of \$2,000 per day per violation.
  - iii. The 31<sup>st</sup> day and all additional days of failing to comply with all terms and conditions of this Order shall result in payment of a stipulated penalty of \$3,000 per day per violation.
- b. For the period beginning January 2019 through the termination date of this Order, Bluestone shall be liable for stipulated penalties for non-compliances for Permit(s), Outlet(s) and Parameter(s) specified in Table A in the following amounts:
  - i. \$1,000 for each violation of a daily maximum limit;
  - ii. \$3,000 for each violation of a monthly average limit;
  - iii. \$10,000 for each month for each of the Permits for which Bluestone fails to submit a required discharge monitoring report for one or more outlets with limits.

**OTHER PROVISIONS**

1. Bluestone hereby waives its right to appeal this Order under the provisions of Chapter 22, Article 11, Section 21 of the Code of West Virginia. Under this Order, Bluestone agrees to take all actions required by the terms and conditions of this Order and consents to and will not contest the Director's jurisdiction regarding this Order. However, Bluestone does not admit to any factual and legal determinations made by the Director and reserves all rights and defenses available regarding liability or responsibility in any proceedings regarding Bluestone other than proceedings, Administrative or Civil, to enforce this Order.
2. The Director reserves the right to take further action if compliance with the terms and conditions of this Order does not adequately address the violations noted herein and reserves all rights and defenses which he may have pursuant to any legal authority, as well as the right to raise, as a basis for supporting such legal authority or defenses, facts other than those contained in the Findings of Fact.
3. If any event occurs which causes delay in the achievement of the requirements of this Order, Bluestone shall have the burden of proving that the delay was caused by circumstances beyond its reasonable control which could not have been overcome by due diligence (i.e., force majeure). Force majeure shall not include delays caused or contributed to by the lack of sufficient funding. Within three (3) working days after

Bluestone becomes aware of such a delay, notification shall be provided to the Acting Assistant Deputy Director and shall, within ten (10) working days of initial notifications, submit a detailed written explanation of the anticipated length and cause of the delay, the measures taken and/or to be taken to prevent or minimize the delay, and a timetable by which Bluestone intends to implement these measures. If the Director agrees that the delay has been or will be caused by circumstances beyond the reasonable control of Bluestone (i.e., force majeure), the time for performance hereunder shall be extended for a period of time equal to the delay resulting from such circumstances. A force majeure amendment granted by the Director shall be considered a binding extension of this Order and of the requirements herein. The determination of the Director shall be final and not subject to appeal.

4. Compliance with the terms and conditions of this Order shall not in any way be construed as relieving Bluestone of the obligation to comply with any applicable law, Permit, other order, or any other requirement otherwise applicable. Violations of the terms and conditions of this Order may subject Bluestone to additional penalties and injunctive relief in accordance with the applicable law.
5. The provisions of this Order are severable and should a court or board of competent jurisdiction declare any provisions to be invalid or unenforceable, all other provisions shall remain in full force and effect.
6. This Order is binding on Bluestone, its successors and assigns.
7. This Order shall terminate upon the verification of WVDEP that Bluestone has met all requirements with the Order and is in full compliance.

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Company Representative, Representative Title \_\_\_\_\_ Date \_\_\_\_\_  
Bluestone Coal Corporation

Public Notice begin: \_\_\_\_\_ Date \_\_\_\_\_

Public Notice end: \_\_\_\_\_ Date \_\_\_\_\_

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Harold D. Ward, Director \_\_\_\_\_ Date \_\_\_\_\_  
Division of Mining and Reclamation  
Deputy Secretary  
Department of Environmental Protection

Attachment 1

The Permittee shall achieve compliance with the requirements of the Order in accordance with the following schedule:

a. Submit required Corrective Action Plan	Within 90 days of effective date of this order
b. Submit a Quarterly Status Report to the Acting Assistant Deputy Director, Permit Inspector and NPDES Supervisor for each listed Permit	Within 60 days of submittal of Corrective Action Plan through termination of Order
c. Approval of applications for Permit Renewal for Permits found in Findings of Fact – 10 of this Order	Within 180 days of effective date of this Order
d. Continue to monitor all applicable permits/outlets found in Table A per approved final effluent limits and submit per NPDES permit conditions	Monthly per Discharge Monitoring Report requirements
e. Comply with final effluent limits for all Permits/Outlets/Parameters found in Table A of this Order	As soon as possible but no later than 3 (three) years from the effective date of this Order, or when a permit application specifying new final limits has been approved, whichever occurs first

## ATTACHMENT 2

WV1005978; Outlet 001; DMR Exceedances - MAX DAILY - 01/01/2016-12/31/18						
Date	Parameter	Units	Permitted Max.	Reported Max.	% Exceedance	Degree of Non-Compliance
10/31/2017	01105 - Aluminum, Total (as Al)	MG/L	.75	1.09600	46.13%	Min.
7/31/2018	01105 - Aluminum, Total (as Al)	MG/L	.75	1.55	106.67%	Mod.
7/31/2018	01045 - Iron, Total (as Fe)	MG/L	2.46	2.60	5.69%	Maj.

WV1005978; Outlet 001; DMR Exceedances - AVG. MONTHLY - 01/01/18-12/31/18						
Date	Parameter	Units	Permitted Avg.	Reported Avg.	% Exceedance	Degree of Non-Compliance
12/31/2016	01105 - Aluminum, Total (as Al)	MG/L	.43	0.56700	31.86%	Min.
7/31/2018	01105 - Aluminum, Total (as Al)	MG/L	.43	1.55	260.47%	Mod.

WV1005979 non pH Totals						
plus pH	0	0	0	0	0	0
	3	2	0	0	0	0

WV1005995; Outlet 001; DMR Exceedances - MAX DAILY - 01/01/2016-12/31/18							Degree of Non-Compliance										
Date	Parameter	Units	Permitted Max Daily	Reported Max Daily	% Exceedance	Min	Mod.	Max	Date	Parameter	Units	Permitted Avg Monthly	Reported Avg Monthly	% Exceedance	Min	Mod.	Max
4/30/2016	01045 - Iron, Total (as Fe)	MG/L	2.46	2.54900	3.62%				5/31/2016	01045 - Iron, Total (as Fe)	MG/L	2.46	2.65400	7.89%			
5/31/2016	01045 - Iron, Total (as Fe)	MG/L	2.46	2.65400	7.89%				6/30/2018	01045 - Iron, Total (as Fe)	MG/L	2.46	2.8800	17.07%			
6/30/2018	01045 - Iron, Total (as Fe)	MG/L	2.46	2.8800	17.07%				9/27/2018	01045 - Iron, Total (as Fe)	MG/L	2.46	8.68	252.85%			
5/31/2016	01105 - Aluminum, Total (as Al)	MG/L	.75	0.89600	19.47%				7/31/2017	01105 - Aluminum, Total (as Al)	MG/L	.75	0.87600	16.80%			
7/31/2017	01105 - Aluminum, Total (as Al)	MG/L	.75	0.87600	16.80%				10/31/2017	01105 - Aluminum, Total (as Al)	MG/L	.75	1.08800	45.07%			
6/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.75	1.80000	140.00%				9/7/2018	01105 - Aluminum, Total (as Al)	MG/L	.75	5.51	634.67%			
9/7/2018	01105 - Aluminum, Total (as Al)	MG/L	.75	5.51	634.67%				11/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.75	1.18	57.33%			
5/31/2016	00530 - Total Suspended Solids	MG/L	70	73.00000	4.29%				5/31/2016	00530 - Total Suspended Solids	MG/L	70	98.00000	40.00%			
6/30/2018	00530 - Total Suspended Solids	MG/L	70	98.00000	40.00%												

WV1005995; Outlet 001; DMR Exceedances - AVG. MONTHLY - 01/01/16-12/31/18							Degree of Non-Compliance										
Date	Parameter	Units	Permitted Avg Monthly	Reported Avg Monthly	% Exceedance	Min	Mod.	Max	Date	Parameter	Units	Permitted Avg Monthly	Reported Avg Monthly	% Exceedance	Min	Mod.	Max
4/30/2016	01045 - Iron, Total (as Fe)	MG/L	1.42	1.48250	4.40%				5/31/2016	01045 - Iron, Total (as Fe)	MG/L	1.42	1.54450	8.77%			
5/31/2016	01045 - Iron, Total (as Fe)	MG/L	1.42	1.54450	8.77%				6/30/2018	01045 - Iron, Total (as Fe)	MG/L	1.42	1.5900	11.97%			
6/30/2018	01045 - Iron, Total (as Fe)	MG/L	1.42	1.5900	11.97%				5/31/2016	01105 - Aluminum, Total (as Al)	MG/L	.43	0.51450	19.65%			
5/31/2016	01105 - Aluminum, Total (as Al)	MG/L	.43	0.49900	16.05%				7/31/2017	01105 - Aluminum, Total (as Al)	MG/L	.43	0.49900	16.05%			
7/31/2017	01105 - Aluminum, Total (as Al)	MG/L	.43	0.43850	1.98%				2/28/2018	01105 - Aluminum, Total (as Al)	MG/L	.43	1.0100	134.88%			
2/28/2018	01105 - Aluminum, Total (as Al)	MG/L	.43	1.0100	134.88%				6/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.43	0.48	11.63%			
6/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.43	0.48	11.63%				11/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.35	40.00000	14.29%			
11/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.35	54.50000	55.71%				5/31/2016	00530 - Total Suspended Solids	MG/L	35	98.00000	40.00%			
5/31/2016	00530 - Total Suspended Solids	MG/L	35	98.00000	40.00%				6/30/2018	00530 - Total Suspended Solids	MG/L	35	54.50000	55.71%			

Degree of Non-compliance		
Min	Avg	Max
17	4	1

WV1005995 non pH Totals

Group of individuals		
Min.	Med.	Max.
17	4	1

plus pH
0
0
0

WV1006304; Outlet 001; DMR Exceedances - MAX. DAILY - 01/01/2016-12/31/18									
Date	Parameter	Units	Permitted Max.	Reported Max.	Daily	% Exceedance	Min.	Mod.	Maj.
1/31/2016	00981 - Selenium, Total Recoverable	UG/L	8.2	8.42000	2.68%	X			
12/31/2016	01105 - Aluminum, Total (as Al)	MG/L	.75	0.93400	24.53%	X			
3/31/2018	01105 - Aluminum, Total (as Al)	MG/L	.75	2.99800	299.73%	X			
12/31/2016	00530 - Total Suspended Solids	MG/L	.70	73.00000	4.29%	X			
3/31/2018	00530 - Total Suspended Solids	MG/L	.70	136.00000	94.29%	X			
3/31/2018	01045 - Iron, Total (as Fe)	MG/L	2.46	4.66700	89.72%	X			
WV1006304; Outlet 001; DMR Exceedances - AVG. MONTHLY - 01/01/2016-12/31/18									
Date	Parameter	Units	Permitted Avg.	Reported Avg.	Monthly	% Exceedance	Min.	Mod.	Maj.
1/31/2016	00981 - Selenium, Total Recoverable	UG/L	4.7	6.33500	34.79%	X			
8/31/2017	00981 - Selenium, Total Recoverable	UG/L	4.7	4.74500	0.96%	X			
3/31/2018	01105 - Aluminum, Total (as Al)	MG/L	.43	0.67967	58.06%	X			
6/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.43	0.53000	23.26%	X			
3/31/2018	00530 - Total Suspended Solids	MG/L	.35	39.25000	12.14%	X			
WV1006304; Outlet 002; DMR Exceedances - MAX. DAILY - 01/01/2016-12/31/18									
Date	Parameter	Units	Permitted Max.	Reported Max.	Daily	% Exceedance	Min.	Mod.	Maj.
2/29/2016	00530 - Total Suspended Solids	MG/L	.70	83.00000	18.57%	X			
8/31/2017	00530 - Total Suspended Solids	MG/L	.70	2568.00000	3568.57%	X			
3/31/2018	00530 - Total Suspended Solids	MG/L	.70	179.00000	155.71%	X			
10/31/2018	00530 - Total Suspended Solids	MG/L	.70	1024.00	1362.86%	X			
8/31/2017	01105 - Aluminum, Total (as Al)	MG/L	.75	20.85000	2680.00%	X			
3/31/2018	01105 - Aluminum, Total (as Al)	MG/L	.75	2.60000	246.67%	X			
10/31/2018	01105 - Aluminum, Total (as Al)	MG/L	.75	9.14	1118.67%	X			
8/31/2017	01045 - Iron, Total (as Fe)	MG/L	2.46	30.17000	1126.42%	X			
3/31/2018	01045 - Iron, Total (as Fe)	MG/L	2.46	3.59400	46.10%	X			
10/31/2018	01045 - Iron, Total (as Fe)	MG/L	2.46	18.17	658.62%	X			
WV1006304; Outlet 002; DMR Exceedances - AVG. MONTHLY - 01/01/2016-12/31/18									
Degree of Non-Compliance									

Date	Parameter	Units	Permitted Avg.	Reported Avg.	% Exceedance	Min.	Mod.	Maj.
2/29/2016	00530 - Total Suspended Solids	MG/L	35	43.00000	22.86%	X		
8/31/2017	00530 - Total Suspended Solids	MG/L	35	858.666667	2353.33%		X	
3/31/2018	00530 - Total Suspended Solids	MG/L	35	93.66667	167.62%	X		
10/31/2018	00530 - Total Suspended Solids	MG/L	35	184.00	425.71%		X	
8/31/2017	01105 - Aluminum, Total (as Al)	MG/L	.43	6.99000	1525.58%		X	
3/31/2018	01105 - Aluminum, Total (as Al)	MG/L	.43	0.86360	100.84%	X		
10/31/2018	01105 - Aluminum, Total (as Al)	MG/L	.43	1.68	290.70%	X		
8/31/2017	01045 - Iron, Total (as Fe)	MG/L	1.42	10.13367	613.54%		X	
10/31/2018	01045 - Iron, Total (as Fe)	MG/L	1.42	3.24	128.17%	X		
<b>WV1006304; Outlet 003; DMR Exceedances - AVG, MONTHLY - 01/01/16-12/31/18</b>								
Date	Parameter	Units	Permitted Avg.	Reported Avg.	% Exceedance	Min.	Mod.	Maj.
4/30/2018	00981 - Selenium, Total Recoverable	UG/L	4.7	5.46500	16.28%	X		
6/30/2018	00981 - Selenium, Total Recoverable	UG/L	4.7	4.7200	0.43%	X		
<b>WV1006304; Outlet 005; DMR Exceedances - MAX, DAILY - 01/01/2016-12/31/18</b>								
Date	Parameter	Units	Permitted Max.	Reported Max.	% Exceedance	Min.	Mod.	Maj.
5/31/2016	01105 - Aluminum, Total (as Al)	MG/L	.75	0.79800	6.40%	X		
10/31/2017	01105 - Aluminum, Total (as Al)	MG/L	.75	1.41900	89.20%	X		
10/31/2017	01045 - Iron, Total (as Fe)	MG/L	2.46	2.99700	21.83%	X		
10/31/2017	00530 - Total Suspended Solids	MG/L	70	118.00000	68.57%	X		
1/31/2018	00530 - Total Suspended Solids	MG/L	70	97.00000	38.57%	X		
7/31/2018	00981 - Selenium, Total Recoverable	UG/L	8.2	8.30	1.22%	X		
<b>WV1006304; Outlet 005; DMR Exceedances - AVG, MONTHLY - 01/01/16-12/31/18</b>								
Date	Parameter	Units	Permitted Avg.	Reported Avg.	% Exceedance	Min.	Mod.	Maj.
10/31/2017	01105 - Aluminum, Total (as Al)	MG/L	.43	0.50400	17.21%	X		
10/31/2017	00530 - Total Suspended Solids	MG/L	35	37.40000	6.86%	X		
12/31/2017	00530 - Total Suspended Solids	MG/L	35	37.66667	7.62%	X		

WV1008304; Outlet 006; DMR Exceedances - MAX. DAILY - 01/01/2016-12/31/18									
Date	Parameter	Units	Permitted Max Daily	Reported Max Daily	% Exceedance	Min.	Max.	Mod.	Maj.
7/31/2018	00981 - Selenium, Total Recoverable	UG/L	8.2	8.87	8.17%	X			
WV1008304; Outlet 006; DMR Exceedances - AVG. MONTHLY - 01/01/18-12/31/18									
Date	Parameter	Units	Permitted Avg Monthly	Reported Avg Monthly	% Exceedance	Min.	Max.	Mod.	Maj.
6/30/2018	00981 - Selenium, Total Recoverable	UG/L	4.7	6.7200	42.98%				X
7/31/2018	00981 - Selenium, Total Recoverable	UG/L	4.7	7.18	52.77%				X
8/31/2018	00981 - Selenium, Total Recoverable	UG/L	4.7	5.62	19.57%				X
9/30/2018	00981 - Selenium, Total Recoverable	UG/L	4.7	6.05	28.72%				X
10/31/2018	00981 - Selenium, Total Recoverable	UG/L	4.7	5.79	23.19%				X
11/30/2018	00981 - Selenium, Total Recoverable	UG/L	4.7	6.24	32.77%				X
12/31/2018	00981 - Selenium, Total Recoverable	UG/L	4.7	5.44	15.74%				X
WV1008304; Outlet 007; DMR Exceedances - MAX. DAILY - 01/01/2016-12/31/18									
Date	Parameter	Units	Permitted Max Daily	Reported Max Daily	% Exceedance	Min.	Max.	Mod.	Maj.
5/31/2016	01105 - Aluminum, Total (as Al)	MG/L	.75	1.18800	58.40%	X			
5/31/2016	01045 - Iron, Total (as Fe)	MG/L	2.46	2.69800	9.67%	X			
5/31/2016	00530 - Total Suspended Solids	MG/L	70	75.00000	7.14%	X			
6/30/2018	00981 - Selenium, Total Recoverable	UG/L	8.2	13.0000	58.54%	X			
7/31/2018	00981 - Selenium, Total Recoverable	UG/L	8.2	13.92	69.76%	X			
8/31/2018	00981 - Selenium, Total Recoverable	UG/L	8.2	14.23	73.54%	X			

WV008304; Outlet#07; DMR Exceedances - AVG: MONTHLY - 01/01/16-12/31/18						
Date	Parameter	Units	Permitted/Avg.	Reported/Avg.	% Exceedance	Degree of Non-Compliance
5/31/2016	01105 - Aluminum, Total (as Al)	MG/L	.43	0.63250	47.09%	X
5/31/2016	01045 - Iron, Total (as Fe)	MG/L	1.42	1.42800	0.56%	X
5/31/2016	00530 - Total Suspended Solids	MG/L	35	39.50000	12.86%	X
6/30/2018	00981 - Selenium, Total Recoverable	UG/L	4.7	11.3400	141.28%	X
7/31/2018	00981 - Selenium, Total Recoverable	UG/L	4.7	8.72	85.53%	X
8/31/2018	00981 - Selenium, Total Recoverable	UG/L	4.7	10.13	115.53%	X
9/30/2018	00981 - Selenium, Total Recoverable	UG/L	4.7	10.45	122.34%	X
10/31/2018	00981 - Selenium, Total Recoverable	UG/L	4.7	8.88	88.94%	X
11/30/2018	00981 - Selenium, Total Recoverable	UG/L	4.7	10.22	117.45%	X
12/31/2018	00981 - Selenium, Total Recoverable	UG/L	4.7	9.74	107.23%	X
WV008304; Outlet#08; DMR Exceedances - MAX: DAILY - 01/01/2016-12/31/18						
Date	Parameter	Units	Permitted/Max	Reported/Max	% Exceedance	Degree of Non-Compliance
6/30/2018	00981 - Selenium, Total Recoverable	UG/L	8.2	11.1700	36.22%	X
7/31/2018	00981 - Selenium, Total Recoverable	UG/L	8.2	14.02	70.98%	X
8/31/2018	00981 - Selenium, Total Recoverable	UG/L	8.2	12.41	51.34%	X
9/30/2018	00981 - Selenium, Total Recoverable	UG/L	8.2	11.93	45.49%	X
10/31/2018	00981 - Selenium, Total Recoverable	UG/L	8.2	12.02	46.59%	X
11/30/2018	00981 - Selenium, Total Recoverable	UG/L	8.2	11.72	42.93%	X
12/31/2018	00981 - Selenium, Total Recoverable	UG/L	8.2	9.77	19.15%	X
WV008304; Outlet#08; DMR Exceedances - AVG: MONTHLY - 01/01/16-12/31/18						
Date	Parameter	Units	Permitted/Avg.	Reported/Avg.	% Exceedance	Degree of Non-Compliance
6/30/2018	00981 - Selenium, Total Recoverable	UG/L	4.7	11.1200	136.60%	X

7/31/2018	00981 - Selenium, Total Recoverable	UG/L	4.7	7.59	61.49%	X
8/31/2018	00981 - Selenium, Total Recoverable	UG/L	4.7	9.86	109.79%	X
9/30/2018	00981 - Selenium, Total Recoverable	UG/L	4.7	9.56	103.40%	X
10/31/2018	00981 - Selenium, Total Recoverable	UG/L	4.7	9.41	100.21%	X
11/30/2018	00981 - Selenium, Total Recoverable	UG/L	4.7	8.67	84.47%	X
12/31/2018	00981 - Selenium, Total Recoverable	UG/L	4.7	8.08	71.91%	X

## WV1006304: Outlet 045 | DMR Exceedances - MAX | DAILY - 01/01/2018-12/31/18

Date	Parameter	Units	Permitted Max.	Reported Max.	Degree of Non-Compliance		
			Daily	Daily	% Exceedance	Min.	Max.
3/31/2017	01105 - Aluminum, Total (as Al)	MG/L	.75	6.63000	784.00%		X
3/31/2017	00530 - Total Suspended Solids	MG/L	70	186.00000	165.71%		X
3/31/2017	01045 - Iron, Total (as Fe)	MG/L	5.26	6.47000	23.00%	X	

## WV1006304: Outlet 045 | DMR Exceedances - AVG | MONTHLY - 01/01/18-12/31/18

Date	Parameter	Units	Permitted Avg.	Reported Avg.	Degree of Non-Compliance		
			Monthly	Monthly	% Exceedance	Min.	Max.
5/31/2016	01105 - Aluminum, Total (as Al)	MG/L	.43	0.49850	15.53%	X	
3/31/2017	01105 - Aluminum, Total (as Al)	MG/L	.43	2.23567	419.92%		X
3/31/2017	00530 - Total Suspended Solids	MG/L	35	64.66667	84.76%	X	
5/31/2016	00530 - Total Suspended Solids	MG/L	35	36.50000	4.29%	X	

WV1006304 non pH Totals		
plus pH	0	0
Min.	57	29
Max.	12	12

WV1006304 Totals		
Min.	57	29

WV1008347; Outlet 001; DMR Exceedances - MAX, DAILY - 01/01/2016-12/31/18							Degree of Non-Compliance						
Date	Parameter	Units	Permitted/Max	Reported/Max	Daily	% Exceedance	Min.	Mod.	Max.				
4/30/2017	01105 - Aluminum, Total (as Al)	MG/L	.75	0.81900		9.20%	X						
10/31/2017	01105 - Aluminum, Total (as Al)	MG/L	.75	1.19700		59.60%	X						
6/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.75	1.6600		121.33%	X						
9/27/2018	01105 - Aluminum, Total (as Al)	MG/L	.75	0.939		25.20%	X						
11/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.75	1.31		74.67%	X						
6/30/2018	00530 - Total Suspended Solids	MG/L	70	94.0000		34.29%	X						
11/30/2018	00530 - Total Suspended Solids	MG/L	70	74.00		5.71%	X						
6/30/2018	01045 - Iron, Total (as Fe)	MG/L	2.46	2.9000		17.89%	X						

WV1006347; Outlet 001; DMR Exceedances - AVG, MONTHLY - 01/01/16-12/31/18							Degree of Non-Compliance						
Date	Parameter	Units	Permitted/Avg	Reported/Avg	Monthly	% Exceedance	Min.	Mod.	Max.				
6/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.43	0.9600		123.26%	X						
9/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.43	0.44		2.33%	X						
11/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.43	0.55		27.91%	X						
6/30/2018	00530 - Total Suspended Solids	MG/L	35	52.0000		48.57%	X						
6/30/2018	01045 - Iron, Total (as Fe)	MG/L	1.42	1.6200		14.08%	X						

WV1006347 non pH Totals						
Degree of non-compliance						
Min	1.62	Min	3	0	0	0
Max	10	Max	3	0	0	0

WV1006347 plus pH						
Degree of non-compliance						
Min	0	Min	0	0	0	0
Max	10	Max	3	0	0	0

WV1006479: Outlet 002: DMR Exceedances - MAX DAILY - 01/01/2016-12/31/18						Degree of Non-Compliance		
Date	Parameter	Units	Permitted Max Daily	Reported Max Daily	% by Compliance	With	Month	Year
6/30/2017	00530 - Total Suspended Solids	MG/L	70	87	24.28%	X		

WV1006479 non pH Totals						Degree of non-compliance		
plus pH			Min	Max	Avg	With	Month	Year
WV1006479 Totals			1	0	0			

WV1006614; Outlet:001; DMR Exceedances - MAX. DAILY - 01/01/2016-12/31/18							Degree of Non-compliance						
Date	Parameter	Units	Permitted Max.	Reported Max.	Daily	% Exceedance	Min.	Mod.	Maj.				
2/28/2018	01105 - Aluminum, Total (as Al)	MG/L	.75	1.25400	67.20%	X							
6/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.75	0.8300	10.67%	X							
<b>WV1006614; Outlet:001; DMR Exceedances - AVG. MONTHLY - 01/01/18-12/31/18</b>													
Date	Parameter	Units	Permitted Avg.	Reported Avg.	Monthly	% Exceedance	Min.	Mod.	Maj.				
2/28/2018	01105 - Aluminum, Total (as Al)	MG/L	.43	0.76000	76.74%	X							
6/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.43	0.5000	16.23%	X							

WV1006614 non pH Totals							Degree of non-compliance						
Date	Parameter	Units	Permitted Avg.	Reported Avg.	Monthly	% Exceedance	Min.	Mod.	Maj.				
							3	1	0				

plus pH							Degree of non-compliance						
Date	Parameter	Units	Permitted Avg.	Reported Avg.	Monthly	% Exceedance	Min.	Mod.	Maj.				
							3	1	0				

WV1006614 Totals							Degree of non-compliance						
Date	Parameter	Units	Permitted Avg.	Reported Avg.	Monthly	% Exceedance	Min.	Mod.	Maj.				
							3	1	0				

WV1008838; Outlet 001; DMR Exceedances - MAX, DAILY - 01/01/2016-12/31/18							Degree of Non-Compliance		
Date	Parameter	Units	Permitted Max Daily	Reported Max Daily	% Exceedance	Min	Med.	Max	
4/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.75	1.27700	70.27%	X			

WV1008838; Outlet 001; DMR Exceedances - AVG, MONTHLY - 01/01/18-12/31/18							Degree of Non-Compliance		
Date	Parameter	Units	Permitted Avg Monthly	Reported Avg Monthly	% Exceedance	Min	Med.	Max	
4/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.43	1.27700	196.98%	X			
4/30/2018	00530 - Total Suspended Solids	MG/L	35	64.00000	82.86%	X			

WV1008838 non pH Totals							Degree of Non-Compliance		
			Min	Med	Max				
plus pH			0	0	0				

WV1008838 Totals			Degree of Non-Compliance		
Min	Med	Max	Min	Med	Max
1	2	7	0		

WV10186890; Outlet 001: DMR Exceedances - MAX DAILY - 01/01/2016-12/31/18									
Date	Parameter	Units	Permitted Max.	Reported Max.	Daily	% Exceedance	Min.	Mod.	Max.
2/28/2018	01105 - Aluminum, Total (as Al)	MG/L	.75	3.21700	328.93%	X			
3/31/2018	01105 - Aluminum, Total (as Al)	MG/L	.75	3.40000	353.33%	X			
5/31/2018	01105 - Aluminum, Total (as Al)	MG/L	.75	5.8000	673.33%	X			
6/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.75	2.4900	232.00%	X			
10/31/2018	01105 - Aluminum, Total (as Al)	MG/L	.75	0.85	13.33%	X			
11/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.75	0.87	16.00%	X			
12/17/2018	01105 - Aluminum, Total (as Al)	MG/L	.75	1.48	97.33%	X			
12/31/2018	01105 - Aluminum, Total (as Al)	MG/L	.75	1.53	104.00%	X			
2/28/2018	00530 - Total Suspended Solids	MG/L	70	184.00000	162.88%	X			
3/31/2018	00530 - Total Suspended Solids	MG/L	70	204.00000	191.43%	X			
5/31/2018	00530 - Total Suspended Solids	MG/L	70	300.0000	328.57%	X			
6/30/2018	00530 - Total Suspended Solids	MG/L	70	165.0000	135.71%	X			
12/31/2018	00530 - Total Suspended Solids	MG/L	70	83.00	18.57%	X			
3/31/2018	01045 - Iron, Total (as Fe)	MG/L	5.26	5.39800	2.62%	X			
5/31/2018	01045 - Iron, Total (as Fe)	MG/L	5.26	9.5800	82.13%	X			
<b>WV10186890; Outlet 001: DMR Exceedances - AVG MONTHLY - 01/01/16-12/31/18</b>									
Date	Parameter	Units	Permitted Avg.	Reported Avg.	Monthly	% Exceedance	Min.	Mod.	Max.
2/28/2018	01105 - Aluminum, Total (as Al)	MG/L	.43	1.04767	142.64%	X			
3/31/2018	01105 - Aluminum, Total (as Al)	MG/L	.43	0.96720	124.93%	X			
5/31/2018	01105 - Aluminum, Total (as Al)	MG/L	.43	1.5100	251.16%	X			
6/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.43	2.4900	479.07%	X			
9/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.43	0.49	13.95%	X			
10/31/2018	01105 - Aluminum, Total (as Al)	MG/L	.43	0.56	30.23%	X			
12/31/2018	01105 - Aluminum, Total (as Al)	MG/L	.43	0.63	46.51%	X			
2/28/2018	00530 - Total Suspended Solids	MG/L	35	60.62500	73.21%	X			
3/31/2018	00530 - Total Suspended Solids	MG/L	35	54.40000	55.43%	X			
5/31/2018	00530 - Total Suspended Solids	MG/L	35	77.00000	120.00%	X			
6/30/2018	00530 - Total Suspended Solids	MG/L	35	165.0000	371.43%	X			
12/31/2018	00530 - Total Suspended Solids	MG/L	35	40.50	15.71%	X			

5/31/2018	01045 - Iron, Total (as Fe)	MG/L	3	3.0200	0.67%	X	
6/30/2018	01045 - Iron, Total (as Fe)	MG/L	3	4.1400	38.00%	X	

WV1018698; Outlet 002; DMR Exceedances - MAX: DAILY - 01/01/2016-12/31/18							
Date	Parameter	Units	Permitted Max.	Reported/Max.	% Exceedance	Min.	Degree of Non-Compliance
6/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.75	1.9700	162.67%		X
7/31/2018	01105 - Aluminum, Total (as Al)	MG/L	.75	0.84	12.00%	X	
8/31/2018	01105 - Aluminum, Total (as Al)	MG/L	.75	1.33	77.33%	X	
9/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.75	2.54	238.67%	X	
6/30/2018	00530 - Total Suspended Solids	MG/L	70	75.0000	7.14%	X	

WV1018698; Outlet 002; DMR Exceedances - AVG: MONTHLY - 01/01/2016-12/31/18							
Date	Parameter	Units	Permitted Avg.	Reported/Avg.	% Exceedance	Min.	Degree of Non-Compliance
7/31/2017	01105 - Aluminum, Total (as Al)	MG/L	.43	0.66300	54.19%		X
6/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.43	1.1800	174.42%	X	
9/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.43	0.90	109.30%	X	
6/30/2018	00530 - Total Suspended Solids	MG/L	35	43.0000	22.86%	X	

WV1018698; Outlet 003; DMR Exceedances - MAX: DAILY - 01/01/2016-12/31/18							
Date	Parameter	Units	Permitted Max.	Reported/Max.	% Exceedance	Min.	Degree of Non-Compliance
10/10/2018	01105 - Aluminum, Total (as Al)	MG/L	.75	0.912	21.60%	X	

WV1018698 non pH Totals							
				Min	Max	Min	Degree of Non-Compliance
plus pH				0	0	0	

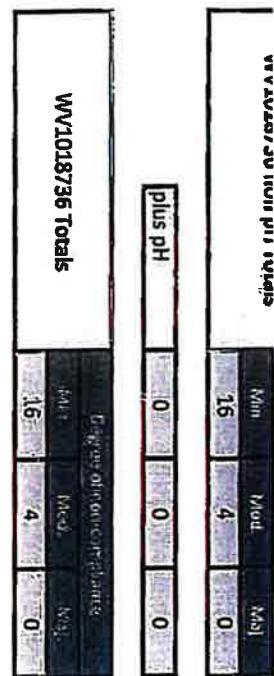
WV1018698 Totals							
				Min	Max	Min	Degree of Non-Compliance
plus pH				0	0	0	



WV1018738; Outlet 001; DMR Exceedances - AVG. MONTHLY - 01/01/18-12/31/18							Degree of Non-Compliance							
Date	Parameter	Units	Permitted Avg.	Reported Avg.	Monthly	% Exceedance	Permitted Avg.	Reported Avg.	Monthly	% Exceedance	Min.	Max.	Mod.	Maj.
1/31/2016	01055 - Manganese, Total (as Mn)	MG/L	2	2.14700		7.35%					X			
4/30/2016	01055 - Manganese, Total (as Mn)	MG/L	2	2.10650		5.33%					X			
6/30/2016	01055 - Manganese, Total (as Mn)	MG/L	2	2.45150		22.58%					X			
8/31/2016	01055 - Manganese, Total (as Mn)	MG/L	2	2.14450		7.22%					X			
WV1018738; Outlet 002; DMR Exceedances - MAX. DAILY - 01/01/2016-12/31/18														
Date	Parameter	Units	Permitted Max.	Reported Max.	Daily	% Exceedance	Permitted Max.	Reported Max.	Daily	% Exceedance	Min.	Max.	Mod.	Maj.
8/26/2016	01055 - Manganese, Total	MG/L	3.47		7.94	128.82%					X			
9/9/2016	01055 - Manganese, Total	MG/L	3.47		5.01	45.24%					X			
9/9/2016	01105 - Aluminum, Total (as Al)	MG/L	0.75		0.775	3.13%					X			
9/9/2016	01045 - Iron, Total (as Fe)	MG/L	2.46		4.64	88.62%					X			
9/30/2016	01045 - Iron, Total (as Fe)	MG/L	2.46		6.70400	172.52%					X			
11/30/2016	01045 - Iron, Total (as Fe)	MG/L	2.46		2.63700	7.20%					X			
1/31/2017	01045 - Iron, Total (as Fe)	MG/L	2.46		2.95900	20.28%					X			
12/31/2017	01045 - Iron, Total (as Fe)	MG/L	2.46		2.70600	10.00%					X			
11/2/2018	01045 - Iron, Total (as Fe)	MG/L	2.46		2.89	17.48%					X			
11/2/2018	01105 - Aluminum, Total (as Al)	MG/L	.75		1.43	90.67%					X			
WV1018738; Outlet 002; DMR Exceedances - AVG. MONTHLY - 01/01/18-12/31/18														
Date	Parameter	Units	Permitted Avg.	Reported Avg.	Monthly	% Exceedance	Permitted Avg.	Reported Avg.	Monthly	% Exceedance	Min.	Max.	Mod.	Maj.
7/31/2016	01045 - Iron, Total (as Fe)	MG/L	1.42		1.44250	1.58%					X			
9/30/2016	01045 - Iron, Total (as Fe)	MG/L	1.42		4.63450	226.37%					X			
11/30/2016	01045 - Iron, Total (as Fe)	MG/L	1.42		2.07400	46.06%					X			
7/31/2017	01045 - Iron, Total (as Fe)	MG/L	1.42		1.53650	8.20%					X			
8/31/2018	01045 - Iron, Total (as Fe)	MG/L	1.42		1.51	6.34%					X			
9/30/2018	01045 - Iron, Total (as Fe)	MG/L	1.42		1.64	15.49%					X			

Degree of Non-Compliance

Degree of Non-Compliance



WV10188865; Outlet 002; DMR Exceedances - MAX; DAILY - 01/01/2018-12/31/18							Degree of Non-compliance										
Date	Parameter	Units	Permitted Max.	Reported Max.	%Exceedance	Min.	Mod.	Maj.	Date	Parameter	Units	Permitted Max.	Reported Max.	%Exceedance	Min.	Mod.	Maj.
7/31/2017	00530 - Total Suspended Solids	MG/L	.70	86.00000	22.86%	X			7/31/2017	01055 - Manganese, Total (as Mn)	MG/L	1.73	2.02300	16.94%	X		
7/31/2017	01045 - Iron, Total (as Fe)	MG/L	2.46	6.21600	152.68%	X			7/31/2017	01105 - Aluminum, Total (as Al)	MG/L	.14	0.15	7.14%	X		
9/30/2018									9/30/2018								
WV10188865; Outlet 003; DMR Exceedances - MAX; DAILY - 01/01/2018-12/31/18							Degree of Non-compliance										
Date	Parameter	Units	Permitted Max.	Reported Max.	%Exceedance	Min.	Mod.	Maj.	Date	Parameter	Units	Permitted Max.	Reported Max.	%Exceedance	Min.	Mod.	Maj.
5/31/2018	01105 - Aluminum, Total (as Al)	MG/L	.14	0.1600	14.29%	X			5/31/2018	01105 - Aluminum, Total (as Al)	MG/L	.14	0.16	14.29%	X		
10/31/2018									10/31/2018								
WV10188865; Outlet 003; DMR Exceedances - AVG; MONTHLY - 01/01/16-12/31/18							Degree of Non-compliance										
Date	Parameter	Units	Permitted Avg.	Reported Avg.	%Exceedance	Min.	Mod.	Maj.	Date	Parameter	Units	Permitted Avg.	Reported Avg.	%Exceedance	Min.	Mod.	Maj.
10/31/2018	01105 - Aluminum, Total (as Al)	MG/L	.08	0.09	12.50%	X			10/31/2018	01105 - Aluminum, Total (as Al)	MG/L	.08	0.09	12.50%	X		
WV10188865; Outlet 004; DMR Exceedances - MAX; DAILY - 01/01/2018-12/31/18							Degree of Non-compliance										
Date	Parameter	Units	Permitted Max.	Reported Max.	%Exceedance	Min.	Mod.	Maj.	Date	Parameter	Units	Permitted Max.	Reported Max.	%Exceedance	Min.	Mod.	Maj.
5/31/2018	01105 - Aluminum, Total (as Al)	MG/L	.14	0.1500	7.14%	X			6/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.14	0.1700	21.43%	X		
6/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.14	0.1700	21.43%	X			9/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.14	0.27	92.86%	X		
9/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.14	0.22	57.14%	X			11/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.14	0.19	35.71%	X		
11/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.08	0.11	37.50%	X			12/31/2018	01105 - Aluminum, Total (as Al)	MG/L	.08	0.16	100.00%	X		
12/31/2018									12/31/2018								
WV10188865; Outlet 004; DMR Exceedances - AVG; MONTHLY - 01/01/16-12/31/18							Degree of Non-compliance										
Date	Parameter	Units	Permitted Avg.	Reported Avg.	%Exceedance	Min.	Mod.	Maj.	Date	Parameter	Units	Permitted Avg.	Reported Avg.	%Exceedance	Min.	Mod.	Maj.
11/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.08	0.11	37.50%	X			12/31/2018	01105 - Aluminum, Total (as Al)	MG/L	.08	0.16	100.00%	X		
12/31/2018																	

WV018965; Outlet 006; DMR Exceedances - MAX, DAILY - 01/01/2016-12/31/18							Degree of Non-Compliance													
Date	Parameter	Units	Permitted Max.	Reported Max.	Daily	% Exceedance	Min.	Mod.	Max.	Date	Parameter	Units	Permitted Max.	Reported Max.	Daily	% Exceedance	Min.	Mod.	Max.	
5/31/2018	01105 - Aluminum, Total (as Al)	MG/L	.14	0.2800	100.00%	X				6/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.14	0.3200	128.57%	X				
6/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.14	0.3200	128.57%	X				9/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.14	0.47	235.71%	X				
9/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.14	0.47	235.71%	X				11/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.14	0.32	128.57%	X				
<b>WV018965; Outlet 006; DMR Exceedances - AVG, MONTHLY - 01/01/18-12/31/18</b>																				
Date	Parameter	Units	Permitted/Avg.	Reported/Avg.	Monthly	% Exceedance	Min.	Mod.	Max.	Date	Parameter	Units	Permitted/Avg.	Reported/Avg.	Monthly	% Exceedance	Min.	Mod.	Max.	
6/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.08	0.0900	12.50%	X				9/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.08	0.16	100.00%	X				
9/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.08	0.16	100.00%	X				11/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.08	0.17	112.50%	X				
<b>WV018965; Outlet 006; DMR Exceedances - MAX, DAILY - 01/01/2016-12/31/18</b>																				
Date	Parameter	Units	Permitted Max.	Reported Max.	Daily	% Exceedance	Min.	Mod.	Max.	Date	Parameter	Units	Permitted Max.	Reported Max.	Daily	% Exceedance	Min.	Mod.	Max.	
9/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.14	0.22	57.14%	X				<b>WV018965; Outlet 006; DMR Exceedances - AVG, MONTHLY - 01/01/18-12/31/18</b>										
Date	Parameter	Units	Permitted Avg.	Reported Avg.	Monthly	% Exceedance	Min.	Mod.	Max.	Date	Parameter	Units	Permitted Avg.	Reported Avg.	Monthly	% Exceedance	Min.	Mod.	Max.	
9/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.08	0.12	50.00%	X				<b>WV018965; Outlet 007; DMR Exceedances - MAX, DAILY - 01/01/2016-12/31/18</b>										
Date	Parameter	Units	Permitted Max.	Reported Max.	Daily	% Exceedance	Min.	Mod.	Max.	Date	Parameter	Units	Permitted Max.	Reported Max.	Daily	% Exceedance	Min.	Mod.	Max.	
7/31/2017	00530 - Total Suspended Solids	MG/L	70	116.00000	65.71%	X				7/31/2017	01045 - Iron, Total (as Fe)	MG/L	2.46	4.98100	102.48%	X				
7/31/2017	01045 - Iron, Total (as Fe)	MG/L	2.46	4.98100	102.48%	X				10/31/2018	01105 - Aluminum, Total (as Al)	MG/L	.14	0.22	57.14%	X				
10/31/2018	01105 - Aluminum, Total (as Al)	MG/L	.14	0.22	57.14%	X				11/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.14	0.24	71.43%	X				
11/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.14	0.24	71.43%	X				12/31/2018	01105 - Aluminum, Total (as Al)	MG/L	.14	0.24	71.43%	X				

WV1018965; Outlet 007; DMR Exceedances - AVG. MONTHLY - 01/01/16-12/31/18							Degree of Non-Compliance			
Date	Parameter	Units	Permitted/Avg.	Reported/Avg.	Monthly	% Exceedance	Min.	Max.		
9/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.08	0.09	12.50%	X				
11/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.08	0.16	100.00%	X				
12/31/2018	01105 - Aluminum, Total (as Al)	MG/L	.08	0.13	62.50%	X				
WV1018965; Outlet 010; DMR Exceedances - MAX. DAILY - 01/01/2016-12/31/18							Degree of Non-Compliance			
Date	Parameter	Units	Permitted/Max.	Reported/Max.	Daily	% Exceedance	Min.	Max.		
6/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.14	0.2500	78.57%	X				
7/31/2018	01105 - Aluminum, Total (as Al)	MG/L	.14	0.29	107.14%	X				
8/31/2018	01105 - Aluminum, Total (as Al)	MG/L	.14	0.53	278.57%	X				
9/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.14	0.68	385.71%	X				
WV1018965; Outlet 010; DMR Exceedances - AVG. MONTHLY - 01/01/16-12/31/18							Degree of Non-Compliance			
Date	Parameter	Units	Permitted/Avg.	Reported/Avg.	Monthly	% Exceedance	Min.	Max.		
6/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.08	0.0900	12.50%	X				
7/31/2018	01105 - Aluminum, Total (as Al)	MG/L	.08	0.10	25.00%	X				
8/31/2018	01105 - Aluminum, Total (as Al)	MG/L	.08	0.11	37.50%	X				
9/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.08	0.23	187.50%	X				
11/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.08	0.09	12.50%	X				

WV1018965 non pH Totals							Degree of Non-Compliance			
							Min.	Med.	Max.	
							25	15	0	

plus pH

0,	0,	0,	0,	0,	0,	0,	0,	0,	0,	0,
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WV1018965 Totals							Degree of Non-Compliance			
							Min.	Med.	Max.	
							25	15	0	

WV1021095; Outlet 001; DMR Exceedances - MAX; DAILY - 01/01/2016-12/31/18							Degree of Non-Compliance			
Date	Parameter	Units	Permitted Max.	Reported Max.	Daily	% Exceedance	Min.	Mod.	Max.	
1/31/2016	01045 - Iron, Total (as Fe)	MG/L	2.46	3.49400	42.03%	X				
2/29/2016	01045 - Iron, Total (as Fe)	MG/L	2.46	2.58100	4.92%	X				
7/31/2017	01105 - Aluminum, Total (as Al)	MG/L	.75	1.05500	40.67%	X				
12/31/2018	01105 - Aluminum, Total (as Al)	MG/L	.75	0.88	17.33%	X				
7/31/2017	00530 - Total Suspended Solids	MG/L	70	104.00000	48.57%	X				

WV1021095; Outlet 001; DMR Exceedances - AVG; MONTHLY - 01/01/16-12/31/18							Degree of Non-Compliance			
Date	Parameter	Units	Permitted Avg.	Reported Avg.	Monthly	% Exceedance	Min.	Mod.	Max.	
1/31/2016	01045 - Iron, Total (as Fe)	MG/L	1.42	1.97350	36.98%	X				
3/31/2016	01045 - Iron, Total (as Fe)	MG/L	1.42	1.48700	4.72%	X				

WV1021095; Outlet 004; DMR Exceedances - MAX; DAILY - 01/01/2016-12/31/18							Degree of Non-Compliance			
Date	Parameter	Units	Permitted Max.	Reported Max.	Daily	% Exceedance	Min.	Mod.	Max.	
1/31/2017	01045 - Iron, Total (as Fe)	MG/L	2.46	11.94000	385.37%	X				
2/28/2017	01045 - Iron, Total (as Fe)	MG/L	2.46	2.65600	7.97%	X				
1/31/2017	00530 - Total Suspended Solids	MG/L	70	320.00000	357.14%	X				
1/31/2017	01105 - Aluminum, Total (as Al)	MG/L	1.7	3.05900	79.94%	X				

WV1021095; Outlet 004; DMR Exceedances - AVG; MONTHLY - 01/01/16-12/31/18							Degree of Non-Compliance			
Date	Parameter	Units	Permitted Avg.	Reported Avg.	Monthly	% Exceedance	Min.	Mod.	Max.	
1/31/2017	01045 - Iron, Total (as Fe)	MG/L	1.42	2.34647	65.24%	X				

WV1021095 non pH Totals							Degree of Non-Compliance			
							Min.	Mod.	Max.	
							9	3	0	

plus pH

WV1021095 Outlet 001 DMR Exceedances - pH Min - 02/19/16-12/31/18							Degree of Non-Compliance		
Date	Parameter	Units	Permitted Avg.	Reported Avg.	% Exceedance	Min	Max	Mean	
2/28/2017	00400 - pH	Std Units	6	5.82	24.00%	X			

WV1024159; Outlet 002; DMR Exceedances - MAX. DAILY - 01/01/2018-12/31/18						
Date	Parameter	Units	Permitted Max.	Reported Max.	% Exceedance	Degree of Non-Compliance
10/10/2018	01105 - Aluminum, Total (as Al)	MG/L	.75	0.912	21.60%	X
WV1024159; Outlet 003; DMR Exceedances - MAX. DAILY - 01/01/2018-12/31/18						
Date	Parameter	Units	Permitted Max.	Reported Max.	% Exceedance	Degree of Non-Compliance
6/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.75	1.9700	162.67%	X
7/31/2018	01105 - Aluminum, Total (as Al)	MG/L	.75	0.84	12.00%	X
8/31/2018	01105 - Aluminum, Total (as Al)	MG/L	.75	1.33	77.33%	X
9/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.75	2.54	238.67%	X
6/30/2018	00530 - Total Suspended Solids	MG/L	70	75.0000	7.14%	X
WV1024159; Outlet 003; DMR Exceedances - AVG. MONTHLY - 01/01/18-12/31/18						
Date	Parameter	Units	Permitted Avg.	Reported Avg.	% Exceedance	Degree of Non-Compliance
9/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.43	0.90	109.30%	X
7/31/2017	01105 - Aluminum, Total (as Al)	MG/L	.43	0.66300	54.19%	X
6/30/2018	01105 - Aluminum, Total (as Al)	MG/L	.43	0.9600	123.26%	X
6/30/2018	00530 - Total Suspended Solids	MG/L	35	36.3300	3.80%	X

WV1024159 non pH Totals						
Degree of Non-Compliance			Degree of Non-Compliance			
	Min	Med	Max	Min	Med	Max
plus pH	0	0	0	0	0	0

WV1024159 Totals						
Degree of Non-Compliance			Degree of Non-Compliance			
	Min	Med	Max	Min	Med	Max
	5	5	0	5	5	0

Degree of non-compliance		
	Min.	Max.
<b>Trout Totals</b>		
Min.	57	29
Max.	12	
<b>Trout+Iron Totals</b>		
Min.	35	18
Max.	41	41

07/10/19

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**Base Penalty Calculation**

(pursuant to 47CSR1-6.1)

**Responsible Party:** Bluestone Coal Corporation M-  
19-283      **WVNPDES No.:** \_\_\_\_\_

WV1005979, WV1005995,  
 WV1006304, WV1006347,  
 WV1006479, WV1006614,  
 WV1008838, WV1018698,  
 WV18736, WV1018965,  
 WV1021095, WV1024159,  
 WV1008552

**Treatment System Design Maximum Flow:** N/A      **MGD**

**Treatment System Actual Average Flow:** N/A      **MGD**      (if known)

Enter FOF# and rate each finding as to Potential and Extent.

1)	Potential for Harm Factor	Factor Range	FOF#											
			No T	No T	No T	T	T	T	TAI	TAI	TAI	TI	TI	TI
a)	Amount of Pollutant Released	1 to 3	1	1	2	1	1	2	1	1	2	1	1	2
b)	Toxicity of Pollutant	0 to 3	1	1	1	1	1	1	3	3	3	1	1	1
c)	Sensitivity of the Environment	0 to 3	1	1	1	3	3	3	3	3	2	2	2	2
d)	Length of Time	1 to 3	1	1	1	1	1	1	1	1	1	1	1	1
e)	Actual Exposure and Effects thereon	0 to 3	1	1	1	1	1	1	1	1	1	1	1	1
	Average Potential for Harm Factor		1	1	1.2	1.4	1.4	1.6	1.8	1.8	2	1.2	1.2	1.4
2)	Extent of Deviation Factor	Factor Range												
	Degree of Non-Compliance	1 to 3	1	2	3	1	2	3	1	2	3	1	2	3

**Potential for Harm Factors:**

- 1c - Sensitivity of the Environment Potentially Affected (0 for "dead" stream)
- 1d - Length of Time of Violation
- 1e - Actual Human/Environmental Exposure and Resulting Effects thereon

**Examples/Guidance:**

**Note:** Rate as 1 for Minor, 2 for Moderate and 3 for Major. Rate as 0 if it does not apply.

**Minor** = exceedance of permit limit by <=40% for Avg. Monthly or <=100% for Daily Max., exceed numeric WQ standard by <= 100%, or report doesn't contain some minor information.

**Moderate** = exceedance of permit limit by >= 41% and <= 300% for Avg. Monthly, >= 101% and <= 600% for Daily Max., exceed numeric WQ standard by >= 101% and <= of 600% or report doesn't fully address intended subject matter.

**Major** = exceedance of permit limit by >= 301% for Avg. Monthly, >= 601% for Daily Max., exceed numeric WQ standard by >= 601%, failure to submit a report, failure to obtain a permit, failure to report a spill, etc. Note that a facility In SNC should be rated as major for length of time and degree of non-compliance.

Narrative WQ standard violations - case-by-case.

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Continue rating Findings of Facts (FOF) here, if necessary. Otherwise, continue on Page 3.

1)	Potential for Harm Factor	Factor Range	FOF#											
			TIAL	TIAL	TIAL									
a)	Amount of Pollutant Released	1 to 3	1	1	2									
b)	Toxicity of Pollutant	0 to 3	3	3	3									
c)	Sensitivity of the Environment	0 to 3	2	2	2									
d)	Length of Time	1 to 3	1	1	1									
e)	Actual Exposure and Effects thereon	0 to 3	1	1	1									
Average Potential for Harm Factor			1.6	1.6	1.8	No								
2)	Extent of Deviation Factor	Factor Range												
	Degree of Non-Compliance	1 to 3	1	2	3									



**Penalty Adjustment Factors**

(pursuant to 47CSR1-6.2)

**Penalty Adjustment Factor**

6.2.b.1 - Degree of or absence of willfulness and/or negligence - 0% to 30% increase

6.2.b.4 - Previous compliance/noncompliance history - 0% to 100% increase - based upon review of last three (3) years - Warning = maximum of 5% each, N.O.V. = maximum of 10% each, previous Order = maximum of 25% each - Consistent DMR violations for &lt;1 year = 10% maximum, for &gt;1 year but &lt;2 years = 20% maximum, for &gt;2 years but &lt;3 years = 30% maximum, for &gt;3 years = 40 % maximum

6.2.b.6 - Economic benefits derived by the responsible party (increase to be determined)

6.2.b.7 - Public Interest (increase to be determined)

6.2.b.8 - Loss of enjoyment of the environment (increase to be determined)

6.2.b.9 - Staff investigative costs (increase to be determined)

6.2.b.10 - Other factors

**Size of Violator: 0 - 50% decrease**

**NOTE:** This factor is not available to discharges that are causing a water quality violation. This factor does not apply to a commercial or industrial facility that employees or is part of a corporation that employs more than 100 individuals.

Avg. Daily WW Discharge Flow (gpd)	% Reduction Factor
< 5,000	50
5,000 to 9,999	40
10,000 to 19,999	30
20,000 to 29,999	20
30,000 to 39,999	10
40,000 to 99,999	5
> 100,000	0

**Additional Other factors to be determined for increases or decreases on a case-by-case basis.**

Public Notice Costs (cost for newspaper advertisement)

6.2.b.2 - Good Faith - 10% decrease to 10% increase

6.2.b.3 - Cooperation with the Secretary - 0% to 10% decrease

6.2.b.5 - Ability to pay a civil penalty - 0% to 100% decrease

**Base Penalty Adjustments**

Page 5 of 5

(pursuant to 47CSR1-6.2)

<b>Penalty Adjustment Factor</b>	<b>% Increase</b>	<b>% Decrease</b>	<b>Base Penalty Adjustments</b>
6.2.b.1 - Willfulness and/or negligence -	20		\$115,100
6.2.b.4 - Compliance/noncompliance history -	30		\$172,650
6.2.b.6 - Economic benefits - (flat monetary increase)	\$20,000		\$20,000
6.2.b.7 - Public Interest - (flat monetary increase)			\$0
6.2.b.8 - Loss of enjoyment - (flat monetary increase)			\$0
6.2.b.9 - Investigative costs - (flat monetary increase)			\$0
6.2.b.10 - Other factors (size of violator)			\$0
6.2.b.10 - Additional Other Factors - Increase (flat monetary increase)			\$0
6.2.b.10 - Additional Other Factors - Decrease (flat monetary decrease)			\$0
Public Notice Costs (flat monetary increase)	\$60		\$60
6.2.b.2 - Good Faith - Increase			\$0
6.2.b.2 - Good Faith - Decrease			\$0
6.2.b.3 - Cooperation with the Secretary			\$0
6.2.b.5 - Ability to Pay			\$0
<b>Penalty Adjustments</b>			<b>\$307,810</b>
<b>Penalty =</b>			<b>\$883,310</b>

<b>Estimated Economic Benefit Item</b>	<b>Estimated Benefit (\$)</b>
Monitoring & Reporting	\$8,000
Installation & Maintenance of Pollution Control Equipment	
O&M expenses and cost of equipment/materials needed for compliance	
Permit Application or Modification	
Competitive Advantage	\$12,000
<b>Estimated Economic Benefit</b>	<b>\$20,000</b>
<b>Comments:</b>	*Competitive Advantage @ \$1,000/quarter x 12 quarters = \$12,000 Failure to Submit DMR @ \$1,000/reporting frequency. WV1006304 - Outlet 037 April, May, June (\$3,000). WV1008552 - Outlet 003 January, February, March, April. May (\$5,000) = \$8,000

**Penalty Calculation Variables**

**No T: Non-trout stream**

**T: Trout stream**

**TAI: Trout stream and impaired for Aluminum**

**TI: Trout stream and impaired for Iron**

**TIAI: Trout stream and impaired for both iron and Aluminum**

**Sources for determining trout and impairment status:**

~ U.S. EPA approved Section 303(d) Listing and Supplemental Tables Only

[https://dep.wv.gov/WWE/WATERSHED/IR/Pages/303d\\_305b.aspx](https://dep.wv.gov/WWE/WATERSHED/IR/Pages/303d_305b.aspx)

~ 47CSR2

(TITLE 47 -LEGISLATIVE RULE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
WATER RESOURCES  
SERIES 2  
REQUIREMENTS GOVERNING WATER QUALITY STANDARDS)